

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JACKIE MARTINEZ, Personal  
Representative, on behalf of the Estate of  
RUSSELL MARTINEZ,

Plaintiff,

Case No. 1:14-CV-00534-KG/WPL

vs.

JOSEPH SALAZAR, et al.,

Defendants.

**PLAINTIFF'S PROPOSED VOIR DIRE**

Plaintiff, by and through undersigned counsel, hereby submits the following topics and sample questions for Plaintiff's proposed voir dire, to be asked in addition to the Court's questions regarding familiarity with the parties, the witnesses, and their views on, and relationship to, law enforcement. Plaintiff notes that these questions are not intended to be a verbatim recitation of the proposed voir dire, but instead serve as notice of the subject matters and means of questioning Plaintiff proposes. Voir dire is fluid, and the questions will necessarily depend upon the responses given by potential jurors. Plaintiff also expects to follow up on responses given by potential jurors to the Court's questions.

**I. LAW ENFORCEMENT**

1. Do you work in law enforcement, corrections, or security? If so, in what capacity? Have you ever been trained in techniques regarding the use of force? Have you been trained in how to handle persons with physical disabilities?

2. Does anyone in your family, or do any of your friends, work in law enforcement, corrections, or security? If so, in what capacity?

3. If there is a dispute between a member of the public and a police officer as to what happened during an incident between the two, which side would you be more likely to believe? Why? Would you require video of the encounter before you believed the person alleging police brutality?

4. Have you, or any close friends or relatives, ever had any interactions with law enforcement or the criminal justice system? What were those interactions? How did they affect your views on law enforcement? On the justice system?

5. Have you ever been a juror or a party to a criminal court case before? If so, what was that involvement? Did any of those cases involve allegations of excessive force of police misconduct? How did they turn out? What were your thoughts on those cases?

6. Do you have any views about litigation against law enforcement officers? Do you have any views on whether they should be, or should not be, sued for alleged violations of the rights of the people they encounter on the job?

7. When should a person bring litigation against a law enforcement officer? Why or why not?

8. What concerns do you have about finding an individual law enforcement officer liable for violating someone's rights? What concerns do you have about finding that damages are due for a violation of those rights, and rendering a verdict including damages against an individual officer? Without any information on how those damages might be paid, could you still find damages appropriate and enter a judgment?

9. Have any of you ever owned or carried a Taser? Have any of you been shocked with a Taser before?

## **II. COMPENSATING INJURED PERSONS WITH MONEY DAMAGES**

10. What do you think about the fact that the remedy available to a person bringing a lawsuit is compensation through money damages? How do you put a value on something that is not an object, something like pain and suffering? When is it appropriate for an injured person to seek financial compensation? What information would you want to have to determine a fair amount of damages?

11. You'll be instructed that the plaintiff's burden of proof in this case is "a preponderance of the evidence," which means that something is more likely true than not true. That means that if you're picturing some scales, if they tip more towards the plaintiff than the defendants, even by the slightest margin, you must find for the plaintiff. Does that seem like too slight a burden to you? How does that burden of proof affect your willingness to render a verdict including monetary compensation, perhaps significant monetary compensation, for the injuries suffered?

12. If you, your relatives, or your close friends have ever been involved in civil litigation, does that affect your views, sitting here as a juror, about rendering a verdict including damages?

13. What is your understanding of punitive damages? What purpose do they serve? How about the concept of punitive damages to punish, or set an example? What do you think about assessing punitive damages, if appropriate, against an individual law enforcement officer?

## **III. LAWYERS AND LITIGATION**

14. What purpose do you think lawyers serve? How believable are lawyers? What experiences have you had which caused you to feel this way?

15. What purpose does the civil justice system serve? Why do people bring lawsuits seeking financial compensation, seeking money damages? What kinds of people bring those kinds of lawsuits?

16. Do any of you think there are too many lawsuits filed these days? Why do you think that?

17. Do you or any of your relatives work for a law firm or for the Courts? Please describe your job. How will this impact you if you become a juror in this case?

**IV. PERSONS WITH DISABILITIES**

18. Do you, or a family member or a close friend, have a physical disability? Could you tell us about that? Do you have any experience with respect to someone trying to get an accommodation for that disability? What was that experience like?

19. Is anyone familiar with the Americans with Disabilities Act? If so, how are you familiar with it? What have been your experiences with it?

20. Does anyone think that sometimes, some people with disabilities are too pushy about asserting their rights? Or that it's wasteful for local governments and businesses to have to accommodate people with disabilities?

**V. GENERAL CATCH-ALL QUESTIONS**

21. Do any of you have any questions about whether you should or should not serve on this jury?

22. Is there anything that we haven't brought up today that you think might bear on your ability to be a fair and impartial juror?

23. Is there anything that you might want to raise with the Court in private that might bear on your ability to be a fair and impartial juror?

Respectfully submitted,

COBERLY & MARTINEZ, LLLP

/s/ Todd A. Coberly  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of February, 2017, I filed the foregoing using the CM/ECF system, which will electronically send notification of such filing to all counsel of record.

/s/ Todd A. Coberly  
Todd A. Coberly